

## LEGISLATIVE BILL 78

Approved by the Governor May 5, 1999

Introduced by Bruning, 3

AN ACT relating to public utilities; to amend section 14-2115, Reissue Revised Statutes of Nebraska; to change provisions relating to allocation of costs; to restrict certain activities of metropolitan utilities districts and investor-owned natural gas utilities; to provide duties for the Auditor of Public Accounts and the Public Service Commission; to provide a grievance mechanism; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 14-2115, Reissue Revised Statutes of Nebraska, is amended to read:

14-2115. (1) A metropolitan utilities district shall operate and account for each of its several utilities separately and, as to each separate utility, shall possess all powers granted on behalf of that utility or on behalf of any other utility being operated by such district, or granted generally to such district, and all such powers are hereby declared to be cumulative, though separate, as to each utility, except that limitations or restrictions which by their nature or intent are applicable only to a utility of one type shall not apply to other different utilities. The financial obligations of each utility shall be separate and independent from the financial obligations of any other utility.

(2) A metropolitan utilities district shall keep all funds, accounts, and obligations relating to any one utility under its management separate and independent from the funds and accounts of each other utility under its management. The cost of any consolidated operation shall be allocated to the various utilities upon some reasonable basis which is open to investigation, comment, or protest by members of the public. Such allocation methodologies shall be determined by the board of directors and shall provide for the allocation of costs and expenses in a manner that accurately reflects the actual cost of service for each utility under the management of the board, except that for purposes of this section, the collection of sewer use fees for cities of the metropolitan class shall not be considered as a utility. The district shall have separate power to provide for the cost of operation, maintenance, depreciation, extension, construction, and improvement of any utility under its management, applying thereto standard accounting principles.

(3) A metropolitan utilities district shall not discount its water rates or connection fees to any customer in order to obtain an agreement to provide natural gas service to any customer.

(4) A metropolitan utilities district shall not delay or condition in any manner the installation of water service or other agreements related to water service to the purchase of natural gas service from the district.

(5) The Auditor of Public Accounts shall have the authority to initiate an audit or to take any action necessary to ensure compliance with this section.

Sec. 2. Whenever any city of the primary, first, or second class or village is furnished natural gas pursuant to a franchise agreement with an investor-owned natural gas utility, a metropolitan utilities district shall not solicit such city or village to enter into a franchise agreement or promote discontinuance of natural gas service with the utility, unless a specific invitation to submit a proposal on such a franchise has been formally presented to the board of directors of the metropolitan utilities district. For purposes of this section, a specific invitation to submit a proposal shall mean a resolution adopted by a city council of a city of the primary, first, or second class or the board of trustees of a village.

Whenever a specific invitation to submit a proposal is received by the board of directors of a metropolitan utilities district, the invitation will be considered by the board at its next regularly scheduled monthly meeting.

Sec. 3. Sections 4 to 8 of this act shall be applicable to an investor-owned natural gas utility only when it is operating in a county in which there is located the natural gas service area, or portion of the natural gas service area, of a metropolitan utilities district and only with regard to matters arising within any such county.

Sec. 4. No investor-owned natural gas utility or metropolitan

utilities district may extend or enlarge its natural gas service area or extend or enlarge its natural gas mains or natural gas services unless it is in the public interest to do so. In determining whether or not an extension or enlargement is in the public interest, the district or the utility shall consider the following:

- (1) The economic feasibility of the extension or enlargement;
- (2) The impact the enlargement will have on the existing and future natural gas ratepayers of the metropolitan utilities district or the investor-owned natural gas utility;
- (3) Whether the extension or enlargement contributes to the orderly development of natural gas utility infrastructure;
- (4) Whether the extension or enlargement will result in duplicative or redundant natural gas utility infrastructure; and
- (5) Whether the extension or enlargement is applied in a nondiscriminatory manner.

Sec. 5. In determining whether an enlargement or extension of a natural gas service area, natural gas mains, or natural gas services is in the public interest pursuant to section 4 of this act, the following shall constitute rebuttable presumptions:

- (1) Any enlargement or extension by a metropolitan utilities district within a city of the metropolitan class or its extraterritorial zoning jurisdiction is in the public interest;
- (2) Any enlargement or extension by an investor-owned natural gas utility within a city of the primary, first, or second class or village in which it serves natural gas on a franchise basis or its extraterritorial zoning jurisdiction is in the public interest; and
- (3) Any enlargement or extension by a metropolitan utilities district within its statutory boundary or within a city of the first or second class or village in which it serves natural gas on a franchise basis or its extraterritorial zoning jurisdiction is in the public interest.

Sec. 6. A metropolitan utilities district or investor-owned natural gas utility shall not extend duplicative or redundant interior natural gas mains or natural gas services into a subdivision, whether residential, commercial, or industrial, which has existing natural gas utility infrastructure or which has contracted for natural gas utility infrastructure with another utility.

Sec. 7. If the investor-owned natural gas utility or the metropolitan utilities district disagrees with a determination by an investor-owned natural gas utility or a metropolitan utilities district that a proposed extension or enlargement is in the public interest, the matter may be submitted to the Public Service Commission for hearing and determination in the county where the extension or enlargement is proposed and shall be subject to the applicable procedures provided in sections 75-112, 75-129, and 75-134 to 75-136. In making a determination whether a proposed extension or enlargement is in the public interest, the commission shall consider the factors set forth in sections 4 and 5 of this act. The commission shall have no jurisdiction over a metropolitan utilities district or natural gas utility beyond the determination of disputes brought before it under sections 2 to 8 of this act. Ratepayers of the investor-owned natural gas utility or the metropolitan utilities district shall have the right to appear and present testimony before the commission on any matter submitted to the commission under sections 2 to 8 of this act and shall have such testimony considered by the commission in arriving at its determination.

Sec. 8. All books, records, vouchers, papers, contracts, engineering designs, and any other data of the metropolitan utilities district relating to the public interest of an extension or enlargement of natural gas mains or natural gas services or relating to natural gas service areas, whether in written or electronic form, shall be open and made available for public inspection, investigation, comment, or protest upon reasonable request during business hours, except that such books, records, vouchers, papers, contracts, designs, and other data shall be subject to section 84-712.05. Any books, records, vouchers, papers, contracts, designs, or other data not made available to the metropolitan utilities district or an investor-owned natural gas utility shall not be considered by the Public Service Commission in determining whether an enlargement or extension is in the public interest.

Sec. 9. Original section 14-2115, Reissue Revised Statutes of Nebraska, is repealed.